IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.194/2000

Mrs. Surekha Katkar, resident of
House No.95, Kamat Colony,
Navelim, Salcete, Goa 403 707. .... Petitioner.

V/s.

(1) The Goa University, through
its Registrar, having office
at Taleigao Plateau,
Bambolim-Goa.

(2) Dempo Charities Trust's,
Dhempe College of Arts &
Science, through its Principal,
having Office at Miramar,
Panaji, Goa.

(3) The Director of Social
Welfare, Government of Goa,
having office at Panaji-Goa. .... Respondents.

Mr. M.S. Sonak, with Ms. Pooja Bharne, Advocates for the petitioner.

Mrs. A.A. Agni, Advocate for respondent No.1.

None for respondents No.2 and 3.

CORAM : V.G. PALSHIKAR &
P.V. HARDAS, JJ.

DATE : OCTOBER 8, 2003.

ORAL JUDGMENT : (Per HARDAS, J.)

The petitioner in this petition seeks for an appropriate writ, order or direction, directing the respondents to refrain from holding any selection in pursuance of the advertisement dated 10.5.2000; to refrain from discontinuing the services of the petitioner in terms of the communication dated 1.6.2000

and to initiate procedure for dereservation of the post of Librarian and thereafter, to regularise the services of the petitioner in the post of Librarian along with all consequential benefits. The petitioner also prays that in the event, the dereservation has already been carried out, to regularise the petitioner in the post of Librarian along with consequential benefits.

2. The facts, in brief, as are necessary for the decision of this writ petition, are set out hereunder :

An advertisement dated 9.5.1996 was issued by the respondent No.2 inviting applications for the post of Librarian. The advertisement clearly stated that the post of Librarian was reserved for the member of Scheduled Castes and was being advertised for the first time. The advertisement further clarified that if no suitable candidate from the scheduled caste was available, candidate from the general category would be considered for appointment temporarily for a period of one year. The advertisement also stated the minimum qualifications for the post of Librarian. Since the petitioner fulfilled the minimum qualifications, the petitioner applied for being considered for appointment to the post of Librarian. The petitioner was invited to attend the interview and was duly considered by the

Departmental Selection Committee which included the representative of the Management also. On the basis of the recommendation of the Departmental Selection Committee, the petitioner was appointed to the post of Librarian in the respondent No.2 Institution by an order dated 13.7.1996. The appointment order provided that the petitioner's appointment was temporary for the academic year 1996-97 since the petitioner was appointed to a reserved post. The appointment order further stated that the appointment of the petitioner was subject to the approval of the first respondent- the Goa University. The appointment of the petitioner was approved by respondent No.1 for the academic year 1996-97 by a communication addressed to the petitioner dated 28.8.1996.

Respondent No.2 issued an advertisement in March, 1997 again, inviting applications for the post of Librarian in the reserved category. The advertisement further stated that the post was being advertised for the second time. It is stated by the petitioner that the petitioner was informed that if the reserved category candidate was unavailable, the petitioner's services would continue. Accordingly, by communication dated 19.6.1997, the petitioner was informed that her services were continued on the post of Librarian. The second respondent again advertised the post of Librarian

stating that only reserved category candidates were eligible to apply. It is stated in the petition that the petitioner was once again given an assurance that the petitioner had no reason to worry, unless a candidate from the reserved category was available. This time also the petitioner was informed by communication dated 19.6.1998 that the services of the petitioner were continued for the academic year 1998-99. The post of the Librarian reserved for the scheduled castes was advertised for the fourth time by respondent No.2. The advertisement stated that it was restricted to the candidates from the reserved category. The petitioner by communication dated 19.6.1999 was informed that her services were continued for the academic year 1999-2000. The respondent No.2 issued an advertisement on 10.5.2000 inviting applications for the post of Librarian from the general category. The petitioner by her representation dated 12.5.2000 lodged her protest against the issuance of the advertisement dated 10.5.2000. In the said representation, the petitioner made a pointed reference to a circular issued by the first respondent dated 12.9.1988 and requested that no selection be held pursuant to the advertisement dated 10.5.2000 and instead, the procedure for regularisation of the petitioner's appointment consistent with the circular dated 12.9.1988 be initiated. It appears that call letters had been issued, in pursuance of the

advertisement, for interview to be held on 1.7.2000 for the post of Librarian in the general category. The petitioner also, meanwhile, was served with a communication dated 1.6.2000, informing the petitioner that her services are being continued upto 30th June, 2000.

3. We have heard Mr. M.S. Sonak, the learned Counsel for the petitioner and Ms. A.A. Agni, the learned Counsel on behalf of respondent No.1. Respondents No.2 and 3 have remained absent despite service. While issuing Rule, this Court had granted interim relief staying the action of discontinuance of the petitioner's services pursuant to the communication dated 1.6.2000.

4. The first respondent had issued a circular dated 12.9.1988 which is annexed to the petition at Exhibit-D. As per the said circular, whenever a post of Lecturer, reserved for SC/ST in a College/University Teaching Department is filled in by a suitable candidate belonging to the non-reserved category, the post should be advertised at least for more than two consecutive academic years. The circular further states that in the second and third advertisement, the applications should be invited only from the candidates belonging to the reserved category and if, no suitable candidate of the

reserved category is available for the second time also, the candidate of non-reserved category appointed in the post should continue to hold his post during the second academic year also. The circular further states that if on the third occasion also no suitable candidate from the reserved category is available, the candidate appointed would continue to hold his post during the third academic year also. Simultaneously, the College/University will initiate the process of dereservation of the post by making reference to the Director of Social Welfare of the Government of Goa, giving the circumstances in which the candidate belonging to the non-reserved category had to be continued for the third year in succession.

4. Our attention was invited to a Judgment of the Division Bench of this Court (one of which, Palshikar, J. was a party) in **Kakoli Shymalal Sircer vs. Nagpur University & Ors.,** 2002 (3) Bombay Cases Reporter 152. In the aforesaid case, reliance was placed on a similar circular issued by the Nagpur University. Relying on the aforesaid circular of the Nagpur University, the Division Bench had directed that since the petitioner therein was working continuously for more than three years, the said post was dereserved and the services of the petitioner were confirmed from the date of her initial appointment.

5. According to us, the circular issued by the first respondent at Annexure D squarely applies to the case of the petitioner and respondent No.2 ought to have initiated the process of dereservation of the post by making reference to the Director of Social Welfare, Government of Goa. In view of the interim orders passed by this Court dated June 6, 2000, the services of the petitioner have been continued. The petitioner is, therefore, working as a Librarian with effect from 13.7.1996.

6. We, therefore, allow the petition and make Rule absolute and direct the respondent No.2 to initiate the procedure for dereservation of the post of Librarian and thereafter, to regularise the services of the petitioner in the post of Librarian along with all consequential benefits. In the event, however, if dereservation has already been carried out, we direct the respondents to regularise the petitioner in the post of Librarian along with all consequential benefits. In the circumstances, there will be no order as to costs.

V.G. PALSHIKAR, J.

P.V. HARDAS, J.

ssm.